



**Jefferson County**  
**Board of Zoning Appeals Agenda**  
**Thursday, October 23, 2025 at 2:00 p.m.**

Members  
Tyler Quynn, Chair  
Matthew McKinney, Vice Chair  
Mikala Shremshock, Secretary  
David Wiegand  
Elliot Kletter, Alternate  
Keith Semler, Alternate

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**Meeting Location:** County Commission Meeting Room  
Located in the main level of the Jefferson County Government Complex  
(entrance on East side of the building)  
393 N. Lawrence Street, Charles Town, WV 25414

**Broadcast Information:** ZOOM Meeting Link: <https://us02web.zoom.us/j/81697919143>  
Phone Option (Dial by Location): 301-715-8592 / Meeting ID: 816 9791 9143

**Note:** *The County does not transcribe meeting proceedings. Any party desiring a meeting transcript is responsible for providing a stenographer at their own expense.*

**All requests are pursuant to the Zoning & Land Development Ordinance.**

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**Approval of Minutes: September 25, 2025**

**Public Hearing – Administer Oath**

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**Agenda Item #1      File #25-29-ZV**

**Request:** Variance from Section 8.15.A(a) to increase the maximum size of an Accessory Dwelling Unit from 1,700 sf to 1,984 sf.

**Project Info:** Matt and Laura Knott, Owner  
2374 Bakerton Rd., Harpers Ferry, WV  
Parcel ID: 04000300330001; Size: 12.65 acres; Zoning District: Rural

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**Agenda Item #2      File #25-30-ZV**

**Request:** Variance from Section 3.2G to allow the applicant to request an additional extension for an approved Conditional Use Permit to operate a Solar Energy Facility. The current Conditional Use Permit is set to expire on December 7, 2025. The applicant is requesting an additional nine (9) month extension from this expiration date. The Conditional Use Permit was issued for approximately 737-acres of the 878-acre Rippon Energy Facility. The proposal consisted of a 99MW solar electric generating facility, which would have consisted of solar modules, a new substation to connect the solar facility with the electric grid, and underground utilities. The project site has existing high voltage power lines running through the property. (File 22-9-CUP).

**Applicant:** Rippon Energy Facility, LLC

**Parcel Info:** Bullsken LLC, Property Owner – This property has been removed from the project.

673 Old Shennandale Rd, Charles Town WV

Parcel ID: 06001100090000; Lot Size: 133.75 / Project Size: 106.52 ac; Zoning District: Rural

**Parcel Info:** Clarence E Hough Et Al, Property Owner

Vacant parcel located west of the property addressed as 957 Myerstown Rd, Charles Town, WV;

Parcel ID: 06001000030001; Lot Size: 108.66 ac / Project Size: 99.84 ac; Zoning District: Rural

**Parcel Info:** View Mountain Farm LLC, Property Owner

28 Dutch Hill Rd, Charles Town, WV;

Parcel ID: 06002100060000; Lot Size: 101.6 ac / Project Size: 97.01 ac; Zoning District: Rural

**Parcel Info:** TCE Rippon Land Company LLC, Property Owner

2646 Kabletown Rd, Charles Town, WV;

Parcel ID: 06002100050000; Lot Size: 174.6 ac / Project Size: 165.52 ac; Zoning District: Rural

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Parcel Info: TCE Rippon Land Company LLC, Property Owner

Vacant parcel located east of the property addressed as 28 Dutch Hill Rd, Charles Town, WV;  
Parcel ID: 06002100070000; Lot Size: 89.39 ac / Project Size: 86.07 ac; Zoning District: Rural

Parcel Info: TCE Rippon Land Company LLC, Property Owner

Vacant parcel located east of the property addressed as 2646 Kabletown Rd, Charles Town, WV;  
Parcel ID: 06002200050001; Lot Size: 232 ac / Project Size: 169.15 ac; Zoning District: Rural

Parcel Info: Stanley W Jr & Katherine B Dunn, Property Owner - This property has been removed from the project.

1371 Myerstown Rd, Charles Town, WV;

Parcel ID: 06001000050000; Lot Size: 366 ac / Project Size: 12.27 ac; Zoning District: Rural

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### **Zoning Administrator Report**

- a. Monthly Zoning Certificate Activity Report

### **Legal Update**

- a. Discussion with possible deliberative session of the following pending lawsuits:
  1. Jefferson County Circuit Court Case #CC-19-2022-C-141 (RE: Rippon Solar Energy Facility / File 22-9-CUP) Rockwell v. JCBZA
  2. Jefferson County Circuit Court Case # CC-19-2024-C-14 (RE: Jeremy Martin, Tiffany Martin and Earthworx General Contracting Services, LLC v. Jefferson County Board of Zoning Appeals
- b. Discussion with possible deliberative session and signing of draft Findings/Decisions.

### **Meeting: August 28, 2025**

1. Variance from Section 3.2G to extend Wild Hill Solar Project CUP #22-5-CUP. Applicant: Elawan Energy. Owners: Clarence & Donna Hough, T. Todd & Susan Hough, and Charles & Marie Hough (Life). File #25-27-ZV.
2. Variance from Section 9.7. Owners: Clarence & Donna Hough, T. Todd & Susan Hough, and Charles & Marie Hough (Life). File #25-27-ZV.

**DRAFT Meeting Minutes**  
**Jefferson County Board of Zoning Appeals**

1 Meeting Date: September 25, 2025  
2 Meeting Location: County Commission Meeting Room  
3 Located on the main level of the Jefferson County Government Complex  
4 393 N. Lawrence Street, Charles Town, WV 25414  
5 Board Members Present: Tyler Quynn, Chair; Dave Wiegand, Member; and Keith Semler,  
6 Alternate were in attendance in person. Matt McKinney, Vice Chair;  
7 and Elliott Kletter; Alternate were present via ZOOM.  
8 Board Members Absent: Mikala Shremshock was absent with notice.  
9 Staff Members Present: Andy Beall, Zoning Administrator; Steven Groh, Assistant Prosecuting  
10 Attorney; Jennilee Hartman, Zoning Clerk; and Patti Richardson,  
11 Planning Clerk

12 Due to technical difficulties, Mr. McKinney moved to call the meeting to order at 2:13 pm.

13 Mr. Quynn called for a vote, which carried unanimously.

14 Mr. Quynn reviewed meeting protocol for those in attendance.

15 **Approval of Minutes: August 28, 2025**

16 Mr. Wiegand moved to approve the minutes as presented. Mr. Semler seconded the motion, which  
17 carried unanimously.

18 Ms. Hartman swore in members of the public who indicated they would be providing testimony.

19 **Agenda Item # 1 File #25-28-ZV**

20 Request: Variance from Section 9.7 to reduce the front setback from 40' to 31' for a new single  
21 family dwelling unit.

22 Project Info: Harvest Homes, LLC, Owner

23 Lake Forest Estates, Lot 23

24 250 Adelaide Cir, Harpers Ferry, WV

25 Parcel ID: 06023A00230000; Size: 2.29 acres; Zoning District: Rural

26 Mr. David Lutman, owner, and Mr. Paul Raco with P.J. Raco Consulting, LLC were present to  
27 represent the request.

28 Mr. Beall provided an overview of the staff report to the Board.

29 Mr. Raco and Mr. Lutman explained the nature of the request to the Board.

30 Mr. Quynn opened the public comment portion of the hearing. No members of the public provided  
31 testimony. Mr. Quynn closed the public comment portion of the hearing.

32 Mr. McKinney moved to approve variance request #25-28-ZV with the condition that the applicants  
33 are bound by their testimony. Mr. Quynn called for a vote, which carried four in support and one in  
34 opposition (Semler).

35 **Agenda Item # 2 File #25-27-ZV**

36 Request: Variance from Section 3.2G to allow the applicant to request an additional extension for  
37 an approved Conditional Use Permit to operate a Solar Energy Facility. The current  
38 Conditional Use Permit is set to expire on September 30, 2025. The applicant is  
39 requesting an additional 24-month extension from this expiration date. The application  
40 pertains to approximately 262 acres of the 841-acre Wild Hill Solar Project. The project  
41 consists of a 92.5MW solar electric generating facility with solar modules and a new  
42 substation to connect the solar facility with the electric grid (File 22-5-CUP).

- 1 Applicant: Elawan Energy  
2 Parcel Info: Clarence & Donna Hough, Owner  
3 Vacant parcel north of the property located at 340 Old Shennandale Rd.,  
4 Charles Town, WV  
5 Parcel ID: 06000500060000; Lot Size: 49.04 ac / Project Size: 49.04 ac;  
6 Zoning District: Rural  
7 Parcel Info: T. Todd & Susan Hough, Trustees  
8 340 Old Shennandale Rd, Charles Town, WV  
9 Parcel ID: 06000500010000; Lot Size: 206.84 ac / Project Size: 181.70 ac;  
10 Zoning District: Rural  
11 Parcel Info: Charles & Marie Hough (Life), Owner  
12 620 Old Shennandale Rd, Charles Town, WV  
13 Parcel ID: 06001100080000; Lot Size: 118.05 ac / Project Size: 32.11 ac;  
14 Zoning District: Rural

15 Mr. Thomas Moore Lawson, attorney, and Mr. Luis Polo were present on behalf of the property  
16 owners to represent the request.

17 Mr. Beall provided an overview of the staff report to the Board.

18 Mr. Lawson explained the nature of the request to the Board. Mr. Wiegand questioned why the  
19 applicant was requesting a two year extension of time. Mr. Polo explained the interconnectivity  
20 process with PJM and associated timelines that impact the amount of time a solar project can take to  
21 obtain approval. Mr. Polo argued that by granting the extension request that this will afford the  
22 developer the opportunity to utilize newer technology, which will result in a better project. Mr. Polo  
23 also explained that Elawan Energy is seeking to take the project over from the previous developer. In  
24 response to Mr. McKinney's inquiry, Mr. Polo stated that the new developer has only been involved  
25 in this project for approximately two (2) months.

26 Mr. Quynn opened the public comment portion of the hearing.

27 Mr. Richard Zigler spoke in support of the request.

28 Mr. Doug Rockwell, Mr. Bob Aitcheson, and Ms. Patricia Funk spoke in opposition to the request.

29 Mr. Quynn allowed Mr. Zigler to provide additional testimony regarding the original contract with  
30 the previous developer as Mr. Zigler's property is part of the overall project.

31 Mr. Quynn closed the public comment portion of the hearing.

32 Mr. Wiegand asked how the new developer could request an extension of time on a project that was  
33 processed under a different developer. Mr. Lawson stated that a Conditional Use Permit runs with the  
34 land not the developer. The Conditional Use Permit Application is signed by the property owners.  
35 The Zoning Variance Application is signed by the property owners.

36 Mr. Wiegand stated he would like to go into deliberative session. Mr. McKinney stated his objection  
37 to doing so. Mr. Wiegand moved to go into deliberative session to discuss the request with legal  
38 counsel. Mr. Quynn called for a vote on the motion to go into deliberative session, which failed two  
39 (2) in support of the motion and three (3) in opposition (Quynn, McKinney, Kletter).

40 In response to the public's concern that the request was being presented by a new developer, Mr.  
41 McKinney stated that a Conditional Use Permit is issued to the property owners. Mr. McKinney  
42 expressed his concern that the variance process was an unorthodox process to utilize and did not

1 believe the request was in conformance with the intent of the Zoning Ordinance. Mr. McKinney  
2 stated he would be voting in opposition to the request.

3 Mr. Wiegand argued that the purpose of a variance is to find if a hardship is present; and if so, the  
4 Board of Zoning Appeals has the ability to extend the expiration date based on the request.

5 Mr. Kletter stated he had no questions.

6 Mr. Quynn asked if the Board would like to go into deliberative session. Mr. McKinney reiterated  
7 that he would not be in support of a deliberative session.

8 Mr. McKinney moved to deny variance request #25-27-ZV. Mr. Kletter seconded the motion, which  
9 carried three (3) in support of the denial, one in opposition (Semler), and one (1) abstention  
10 (Wiegand).

### 11 **Legal Update**

12 a. Discussion with possible deliberative session of the following pending lawsuits:

13 1. Jefferson County Circuit Court Case #CC-19-2022-C-141 (RE: Rippon Solar Energy  
14 Facility / File 22-9-CUP) Rockwell v. JCBZA

15 2. Jefferson County Circuit Court Case # CC-19-2024-C-14 (RE: Jeremy Martin, Tiffany  
16 Martin and Earthworx General Contracting Services, LLC v. Jefferson County Board of  
17 Zoning Appeals

18 Mr. Groh stated there has been no action on the items noted above.

19 b. Discussion with possible deliberative session and signing of draft Findings/Decisions.

### 20 **Meeting: August 28, 2025**

21 1. Variance from Section 11.1, Appendix B, Section 4.11I, Section 8.9A.9, Section  
22 10.4A.1, 10.4B.2, 10.4B.3, 10.4B.5. Applicant: WLR Automotive, Inc. Property  
23 Owner: SUSO 2 Alabama LP. Files #25-17-ZV, 25-18-ZV, 25-24-ZV, 25-25-ZV, and  
24 25-26-ZV.

25 2. Variance from Section 10.4B.2, Section 10.4B.4, and Appendix B. Applicant: Mannings  
26 Assembly of God Church. Property Owner: Pentecostal Full Gospel Church. File #25-  
27 20-ZV.

28 3. Variance from Section 9.6C and 9.7. Property Owner: Brandon D & Charity Simon.  
29 File #25-21-ZV.

30 4. Variance from Section 10.4A. Property Owner: Christopher Tyler & Donna Hoffman.  
31 File #25-23-ZV.

32 5. Request for an eighteen month extension of the Franklinton Farm Solar Project's  
33 Conditional Use Permit to operate a Solar Energy Facility. Applicant: Franklinton Farm,  
34 LLC. Property Owner: Mark D. Stolipher and Michael Paul Chapman. File #24-4-CUP.

35 A copy of the Findings were provided to the Chair.

### 36 **Zoning Administrator Report**

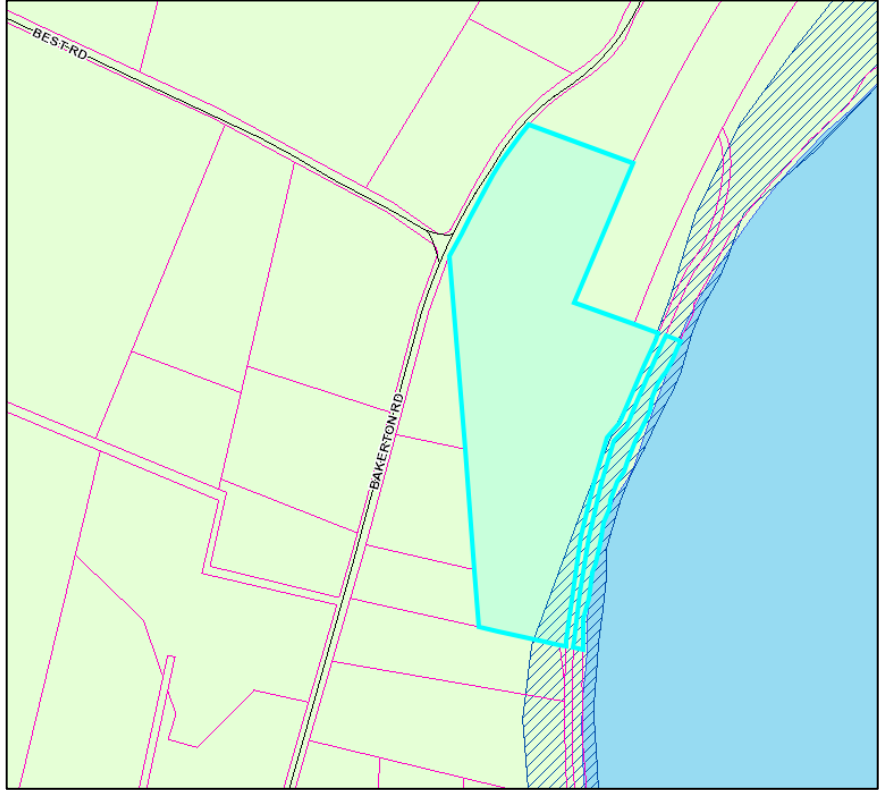
37 Mr. Beall provided the Board with the following information:

38 1. Monthly Zoning Certificate Activity Report. The Report was included in the Agenda packet.

- 1        2. Mr. Beall provided an update regarding the pending Solar Energy Facility text amendment to
- 2            the Zoning Ordinance, which was presented at the September 23rd Planning Commission
- 3            Meeting.
- 4 Mr. Wiegand moved to adjourn the meeting at 3:46 pm. Mr. Quynn called for a vote, which carried
- 5 unanimously.

Staff Report  
 Jefferson County Board of Zoning Appeals  
 October 23, 2025  
**25-29-ZV Knott Variance Request**

Item #1 Variance from Section 8.15.A(a) to increase the maximum size of an Accessory Dwelling Unit from 1,700 sf to 1,984 sf.

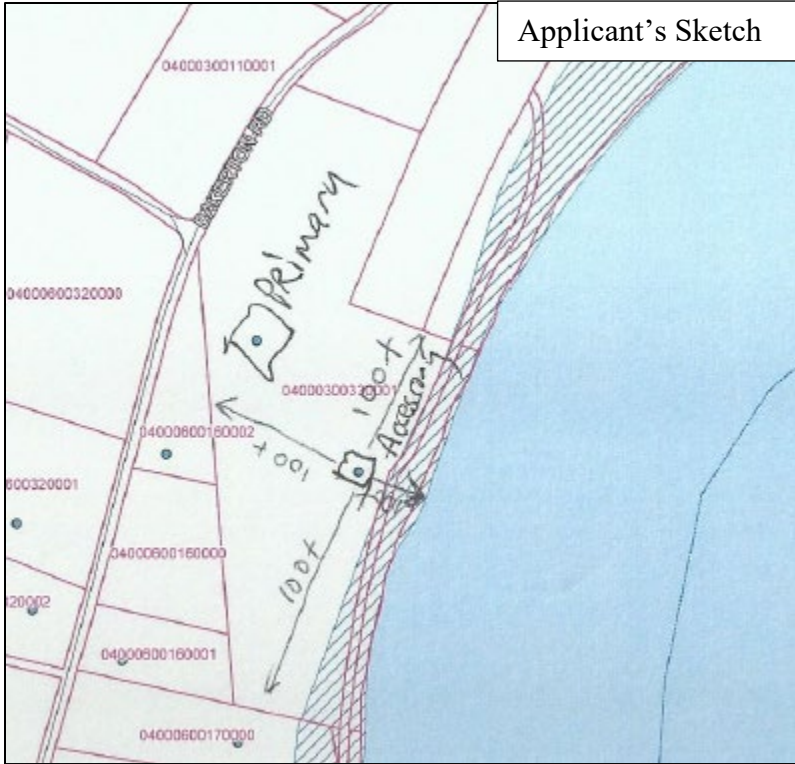
Owner:	Matt and Laura Knott
Consultant	P.J. Raco Consulting, LLC
Parcel Information & Zoning District:	<p style="text-align: center;">2374 Bakerton Rd., Harpers Ferry, WV          Parcel ID: 04000300330001; Size: 12.65 acres; Zoning District: Rural</p> 
History:	02/08/1983: Survey plat of “Parcel A” – Subject parcel (recorded in <a href="#">PB 6/PG 47</a> ) 05/05/2016: Boundary line adjustment (recorded in <a href="#">PB 25/PG 556</a> ) 08/25/2021: Boundary line adjustment (recorded in <a href="#">PB 26/PG 262</a> )
Waivers/Variations:	None
Approved Activity:	Residential
Site Visit:	Site visit not conducted

**Staff Overview**

The applicant is seeking a variance to allow for the construction of a 1,984 square foot accessory dwelling unit for the purpose of housing relatives. The proposed project meets all the criteria set forth under Section 8.15.A except the maximum allowable square footage of 1,700.

A key purpose of the 1,700 square foot maximum is to ensure the accessory unit is clearly subordinate to the principal unit.

Staff Report  
Jefferson County Board of Zoning Appeals  
October 23, 2025  
**25-29-ZV Knott Variance Request**



WV Flood Tool



Staff Report  
Jefferson County Board of Zoning Appeals  
October 23, 2025  
**25-29-ZV Knott Variance Request**

Pursuant to [WV Code Chapter §8A-7-11](#) and Article 2 of the [Jefferson County Zoning Ordinance](#), a variance is defined as "...a deviation from the minimum standards of the zoning ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district nor shall it involve changing the zoning classifications of a parcel of land."

Pursuant to [WV Code Chapter §8A-7-11](#) and Article 6, Section 6.2 of the [Zoning Ordinance](#), the Board shall consider the following criteria and shall grant a variance if it finds that the variance:

1. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
2. Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance;
3. Would eliminate an unnecessary hardship and permit a reasonable use of the land; and
4. Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.

**Conditions of Approval**

Should the Board choose to approve this request, possible conditions of approval include:

1. The accessory dwelling unit is limited to use by a "relative" as defined under Section 8.15.A of the Zoning Ordinance.

**Sections of Ordinance to be Considered:**

**Section 8.15 Accessory Dwelling Unit<sup>26, 32</sup>**

An Accessory Dwelling Unit is defined as a secondary dwelling unit that has a separate kitchen, bathroom, and sleeping area, and may be attached to the principal dwelling unit or detached and situated on the same lot as the principal dwelling unit. An accessory dwelling unit is part of the same property as the principal dwelling unit and cannot be bought or sold separately unless subdivided in accordance with the Subdivision Regulations and the Zoning Ordinance. The owner of the accessory dwelling unit is the owner of the principal dwelling unit. The property owner or immediate family member must occupy either the principal dwelling unit or the accessory dwelling unit. Such accessory dwelling unit is permitted only if it meets one of the following criteria:<sup>32</sup>

A. An "In-Law Suite" is an accessory dwelling unit for the purpose of housing a relative of the property owner and must be clearly subordinate to the principal dwelling unit and meet all of the following criteria:<sup>32</sup>

- (a) Secondary in size to the principal dwelling unit, with a maximum size of 1,700 heated square feet, gross floor area;<sup>32</sup>
- (b) For a detached accessory dwelling unit, must be located on a property of at least two acres;<sup>32</sup>
- (c) Limited to use by a relative\*;<sup>32</sup>
- (d) Sufficient parking available; and<sup>32</sup>
- (e) Approved by the Health Department.<sup>32</sup>

*\*Related by blood, marriage, or adoption. Should relative no longer require the use of the Accessory Dwelling Unit, the property owner may apply for a Special Exception before the Board of Zoning Appeals to allow for rental to non-relatives. The principal dwelling unit or accessory dwelling unit must be occupied by the property owner or immediate family member.<sup>32</sup>*





**JEFFERSON COUNTY, WEST VIRGINIA**  
 Department of Engineering, Planning and Zoning  
**Office of Planning and Zoning**  
 116 East Washington Street, 2<sup>nd</sup> Floor  
 Charles Town, West Virginia 25414

File #: 25-29-ZV  
 Mtg. Date: 10/15/25  
 Fee Paid: \$ \$150

Email: [zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)

Phone: (304) 728-3228

**Zoning Variance Application**

Variations from the Zoning and Land Development Ordinance must comply with Article 8A-7-11 of the WV State Code. A variance is a deviation from the minimum standards of the Ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district, nor shall it involve changing the parcel's zoning classification.

**Property Owner Information**

Owner Name: Matt and Laura Knott  
 Business Name: \_\_\_\_\_  
 Mailing Address: 2374 Bakerton Road, Harpers Ferry, WV 25442  
 Phone Number: Paul 304/676-8256 Email: Paul's is on file

**Applicant Contact Information**

Applicant Name: Same as Owner Same as owner:   
 Business Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Consultant Information**

Consultant Name: Paul J Raco  
 Business Name: P.J. Raco Consulting, LLC  
 Mailing Address: P.O. Box 548, Charles Town, WV 25414  
 Phone Number: 304/676-8256 Email: Paul's is on file at office

**Physical Property Details**

Vacant Lot:

Physical Address: 2374 Bakerton Road, Harpers Ferry WV 25442  
 Parcel ID: (Tax District / Map No. / Parcel No.) Harpers Ferry Districe, Map 3, Parcel 33.1  
 Parcel Size: 12.65 +- Acres Deed Book: 1267 Page No: 518

**Zoning District (please check one)**

- |   |   |
|---|---|
| <input type="checkbox"/> Residential Growth (RG)                          | <input type="checkbox"/> General Commercial (GC)                |
| <input type="checkbox"/> Industrial Commercial (I-C)                      | <input type="checkbox"/> Highway Commercial (HC)                |
| <input checked="" type="checkbox"/> Rural (R)*                            | <input type="checkbox"/> Light Industrial (LI)                  |
| <input type="checkbox"/> Residential-Light Industrial-Commercial (R-LI-C) | <input type="checkbox"/> Major Industrial (MI)                  |
| <input type="checkbox"/> Village (V)                                      | <input type="checkbox"/> Planned Neighborhood Development (PND) |
| <input type="checkbox"/> Neighborhood Commercial (NC)                     | <input type="checkbox"/> Office/Commercial Mixed-Use (OC)       |

Is there a Code Enforcement action pending in relation to this property?  Yes  No

Date Received: Received via email 09/09/2025 (jth)

**Briefly describe the nature of the request (include the dimensions of the proposed structure, if applicable):**

Section of the Zoning Ordinance pertaining to this request: 8.15.A.a. Size of Accessory Dwelling  
An Accessory Dwelling is allowed on same dwelling as long as it is smaller than primary dwelling and occupied by relatives. The primary standard is mentioned twice and that is clearly subordinate to dwelling which is 7,000 sq. ft. And, the proposed cabin is a kit that contains 1984 sq. ft.

**If this request is for a setback variance, please check the following:**

Front Setback       Side Setback       Rear Setback      Reduction from \_\_\_\_\_ to \_\_\_\_\_

**Required Sketch:** Provide a sketch showing the shape and location of the lot indicating all roads, rights of way, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e. the distance of the structure from all property lines), size, and height. Identify all existing buildings, structures, or land uses on the property. The sketch should show the full extent of the property.

**Required Responses:** Each of the following questions must be answered in detail. The Board will evaluate your request based on the answers provided (attach a separate sheet of paper if necessary).

Explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.

The structure will have to meet all building code standards regardless of size and it will need to obtain all Health Department approvals. It will be in the woods and out of the floodplain, so it won't be an impact on the adjacent property owners. This property is also over 12 acres in size, so there is a lot of room to place the second dwelling with little disturbance.

In what way does this request arise from special conditions or attributes, which pertain to the property for which a variance is sought and which were not created by the person seeking the variance?

The second dwelling is permitted as long as it is clearly subordinate in size. That should be relative to the size of the primary dwelling which is 7,000 sq. ft. The proposed cabin kit is 1984 sq. ft. in size which makes it less than 25% in size of the Primary Dwelling. This was the closest size cabin kit that was available.

How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land?

If the variance isn't granted, the difference of 284 sq. ft. (proposed 1984 sq. ft. minus allowed 1700 sq. ft.) would require a complete subdivision of the property which would be costly and time consuming for this small overage. The provision allows the second dwelling on properties over 2 acres. This property has 12.64 acres and based on this scale, 284 sq. ft. seems minor in context.

How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice done?

The intent is to allow a second dwelling on a property for relatives. There was no study determining the maximum allowed, a number was picked with the idea that variances could be granted based on size of property and size of main dwelling. This allows the family cabin without subdividing property.

I authorize the Planning and Zoning staff to revise the application/sketch on my behalf. I understand that said revisions will be discussed with me prior to revising the application/sketch.

**The information given is correct to the best of my knowledge. Property Owner Signature Required.**

*By signing this application, I grant permission to County staff to walk onto the subject property to take photos for the Board of Zoning Appeals staff reports.*

SEE ATTACHED

Property Owner Signature

Date

Property Owner Signature

Date

Briefly describe the nature of the request (include the dimensions of the proposed structure, if applicable):

Section of the Zoning Ordinance pertaining to this request:

See Attached

If this request is for a setback variance, please check the following:

Front Setback       Side Setback       Rear Setback      Reduction from \_\_\_\_\_ to \_\_\_\_\_

**Required Sketch:** Provide a sketch showing the shape and location of the lot indicating all roads, rights of way, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e. the distance of the structure from all property lines), size, and height. Identify all existing buildings, structures, or land uses on the property. The sketch should show the full extent of the property.

**Required Responses:** Each of the following questions must be answered in detail. The Board will evaluate your request based on the answers provided (attach a separate sheet of paper if necessary).

Explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.

See Attached

In what way does this request arise from special conditions or attributes, which pertain to the property for which a variance is sought and which were not created by the person seeking the variance?

See Attached

How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land?

See Attached

How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice done?

See Attached

I authorize the Planning and Zoning staff to revise the application/sketch on my behalf. I understand that said revisions will be discussed with me prior to revising the application/sketch.

The information given is correct to the best of my knowledge. Property Owner Signature Required.

By signing this application, I grant permission to County staff to walk onto the subject property to take photos for the Board of Zoning Appeals staff reports.

  
Property Owner Signature

9/25/25

Date

Property Owner Signature

Date

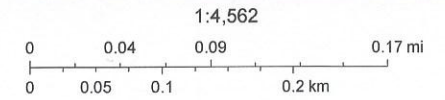
# Jefferson County WV Map



9/16/2025, 2:02:11 PM

- |                |                                  |                        |                 |
|----------------|----------------------------------|------------------------|-----------------|
| • Addresses    | Waterline                        | Firm Panels            | Green: Band_2   |
| Roads          | Waterbody                        | Conservation Easements | Blue: Band_3    |
| Minor Arterial | Surface Water (River, Pond, etc) | Appalachian Trail      | World_Hillshade |
| Local          | Floodplains                      | Spring 2025 Aerial     | Red: Band_1     |
| Parcels        | A,                               |                        |                 |

*PSH  
9/16/25*



Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, (c) OpenStreetMap contributors, and the GIS User Community. Sources: Esri, Maxar, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland,

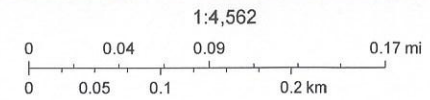
# Jefferson County WV Map



9/16/2025, 1:59:34 PM

- |                |                                  |                        |                    |
|----------------|----------------------------------|------------------------|--------------------|
| • Addresses    | Waterline                        | Firm Panels            | Spring 2025 Aerial |
| Roads          | Waterbody                        | Zoning District        | Red: Band_1        |
| Minor Arterial | Surface Water (River, Pond, etc) | Rural                  | Green: Band_2      |
| Local          | Floodplains                      | Conservation Easements | Blue: Band_3       |
| Parcels        | A.                               | Appalachian Trail      | World_Hillshade    |

*PSR  
9/16/25*



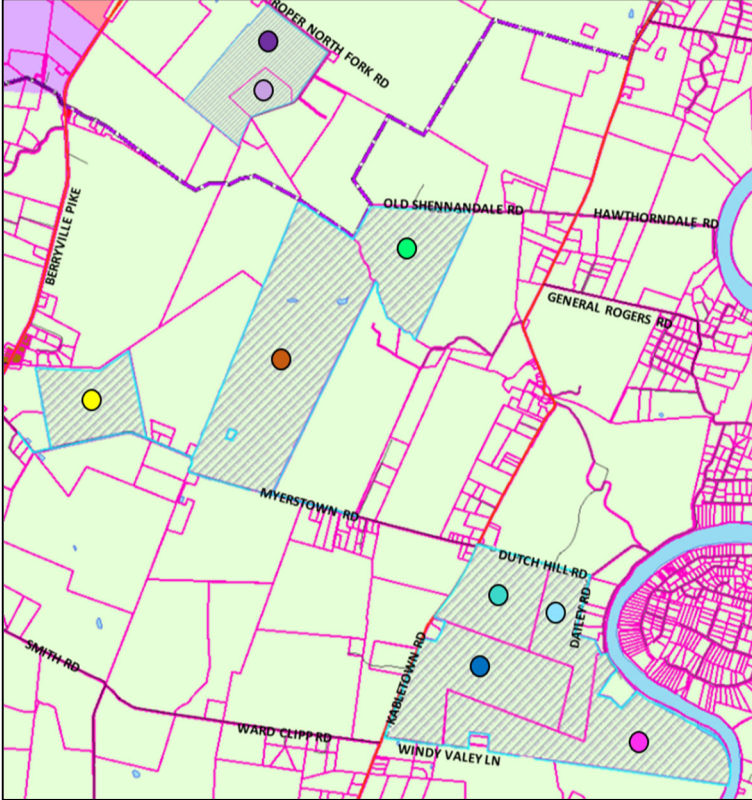
Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, (c) OpenStreetMap contributors, and the GIS User Community. Sources: Esri, Maxar, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland,



Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 October 23, 2025

**25-30-ZV Rippon Energy Facility, LLC RE: File #22-9-CUP**










Item #2 Variance from Section 3.2G to allow the applicant to request an additional extension for an approved Conditional Use Permit to operate a Solar Energy Facility. The current Conditional Use Permit is set to expire on December 7, 2025. The applicant is requesting an additional nine (9) month extension from this expiration date. The Conditional Use Permit was issued for approximately 737-acres of the 878-acre Rippon Energy Facility. The proposal consisted of a 99MW solar electric generating facility, which would have consisted of solar modules, a new substation to connect the solar facility with the electric grid, and underground utilities. The project site has existing high voltage power lines running through the property (File 22-9-CUP).

Project Name:	Rippon Energy Facility (see full project description below)
Applicant:	Rippon Energy Facility, LLC
Owner:	Multiple Owners / See Exhibit Below
Consultant:	Torch Clean Energy / Attn: Sam Gulland and Brian Kusiak
Parcel Information/ Zoning District:	<p style="text-align: center;">Multiple Vacant Parcels / See Exhibit Below</p>  <p style="text-align: center;"> <span style="display: inline-block; width: 15px; height: 10px; background-color: #90EE90; border: 1px solid black; margin-right: 5px;"></span> Proposed Solar Energy Facility Locations             <span style="display: inline-block; width: 15px; height: 10px; border: 2px dashed blue; margin-left: 20px; margin-right: 5px;"></span> Urban Growth Boundary (UGB)         </p>
History:	<p>10/27/22: Board of Zoning Appeals Meeting: Conditional Use Permit (#22-9-CUP)                  Public Hearing - Approved</p> <p>11/15/22: Planning Commission Meeting: Concept Plan (#22-15-SP)                  Public Workshop - Approved</p> <p>12/07/22: Conditional Use Permit Issued – Expiration Date 06/07/24</p> <p>11/01/23: Zoning Certificate Issued</p> <p>11/09/23: BZA approved 18-month extension request – New expiration date 12/07/25</p>

Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 October 23, 2025

**25-30-ZV Rippon Energy Facility, LLC RE: File #22-9-CUP**

**Property Owners / Property Locations**

Map Ref	Property Owner	Property Location
	Bullskin LLC	<b><u>This property has been removed from the project.</u></b> 673 Old Shennandale Rd, Charles Town WV Parcel ID: 06001100090000; Lot Size: 133.75 / Project Size: 106.52 ac;
	Clarence E Hough, Et Al	Vacant parcel located west of the property addressed as 957 Myerstown Rd, Charles Town, WV; Parcel ID: 06001000030001; Lot Size: 108.66 ac / Project Size: 99.84 ac;
	View Mountain Farm LLC	28 Dutch Hill Rd, Charles Town, WV; Parcel ID: 06002100060000; Lot Size: 101.6 ac / Project Size: 97.01 ac;
	<b><u>New Owner: TCE Rippon Land Company LLC</u></b> Formerly: Stanley & Katherine Dunn	2646 Kabletown Rd, Charles Town, WV; Parcel ID: 06002100050000; Lot Size: 174.6 ac / Project Size: 165.52 ac;
	<b><u>New Owner: TCE Rippon Land Company LLC</u></b> Formerly: Stanley & Katherine Dunn	Vacant parcel located east of the property addressed as 28 Dutch Hill Rd, Charles Town, WV; Parcel ID: 06002100070000; Lot Size: 89.39 ac / Project Size: 86.07 ac
	<b><u>New Owner: TCE Rippon Land Company LLC</u></b> Formerly: Stanley & Katherine Dunn	Vacant parcel located east of the property addressed as 2646 Kabletown Rd, Charles Town, WV; Parcel ID: 06002200050001; Lot Size: 232 ac / Project Size: 169.15 ac;
	Stanley & Katherine Dunn	<b><u>This property has been removed from the project.</u></b> 1371 Myerstown Rd, Charles Town, WV; Parcel ID: 06001000050000; Lot Size: 366 ac / Project Size: 12.27
	Stiles Family Partnership LLC	Vacant parcel located north of the property addressed as 1337 Roper North Fork Rd, Charles Town, WV Parcel ID 06001100060001; Lot Size: 25.14 ac
	Stiles Family Partnership LLC	Vacant parcel located north of the property addressed as 1337 Roper North Fork Rd, Charles Town, WV Parcel ID 06001100060000; Lot Size: 115.8 ac

\*All of the subject parcels are zoned Rural. *The parcels included in the last two rows were **not** subject to the Conditional Use Permit requirements and are included for information purposes only, as they are part of the overall project site, which was approved by the PC as part of the Concept Plan.*

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
October 23, 2025  
**25-30-ZV Rippon Energy Facility, LLC RE: File #22-9-CUP**

**Project Description**

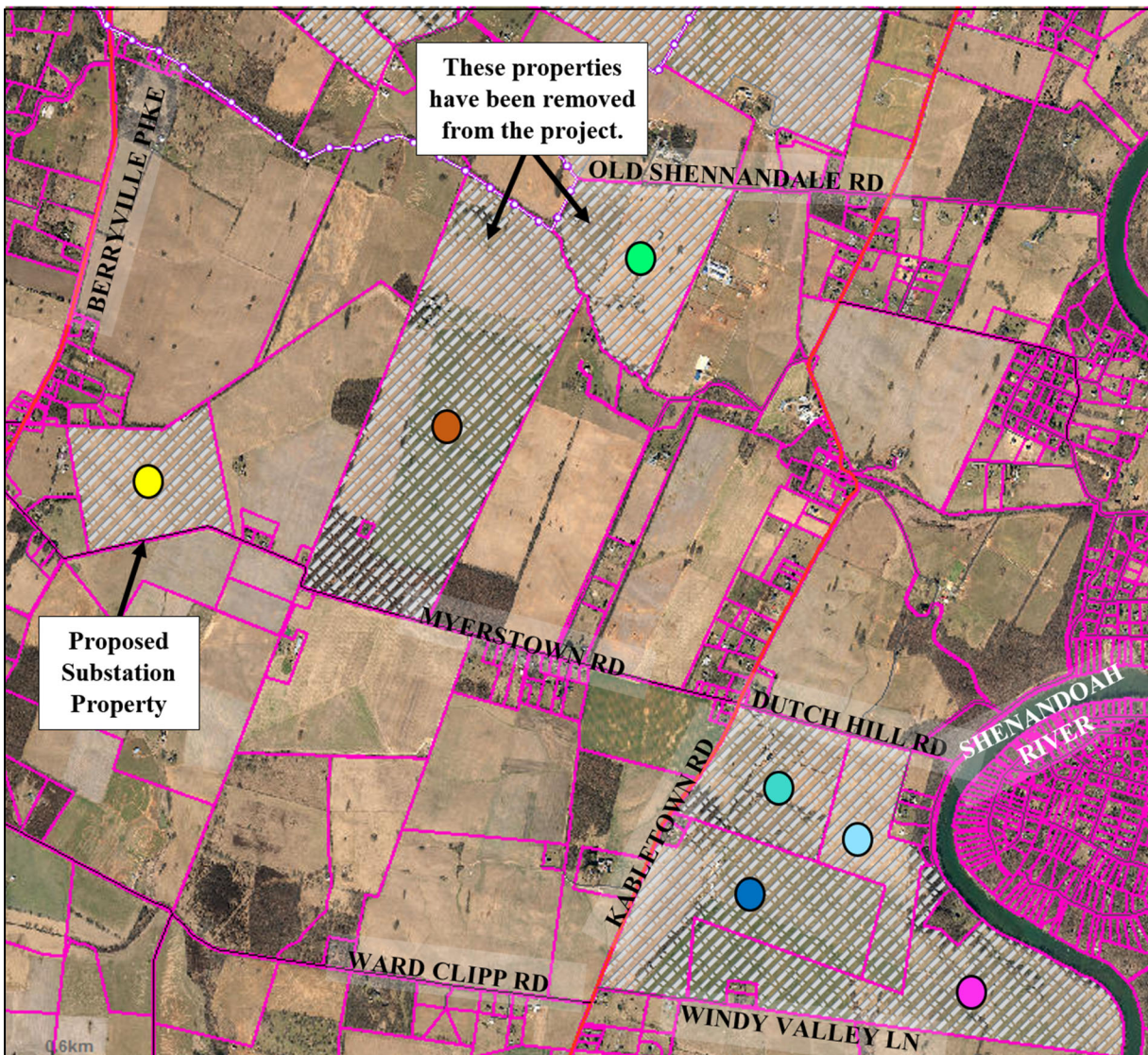
The original acreage included in the project site was 878 acres, of which 737 acres were subject to review by the Board of Zoning Appeals, pursuant to the Conditional Use Permit provisions in Section 6.3 of the Zoning Ordinance.

The project area has since been modified to exclude Parcel 06001100090000 (Lot Size: 133.75 / Project Size: 106.52 ac); and, Parcel 06001000050000 (Lot Size: 366 ac / Project Size: 12.27). Thus reducing the overall project size from 737 acres to approximately 618 acres.

On April 4, 2025, a minor subdivision plat was recorded in [Plat Book 27, at Page 347](#) for Parcel 06002200050001 to transfer 3.5537 acres from Stanley & Katherine Dunn to a family member. This minor subdivision was included in the original Conditional Use Permit application.

On May 1, 2025, the following parcels have transferred from Stanley & Katherine Dunn to TCE Rippon Land Company LLC: Parcels 06002100050000, 06002100070000, 06002200050001.

The exhibit below has been updated to reflect the proposed substation property and the location of the properties that have been removed from the project.



Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
October 23, 2025  
**25-30-ZV Rippon Energy Facility, LLC RE: File #22-9-CUP**

**Staff Overview**

The subject variance request by Rippon Energy Facility, LLC is for an additional nine (9) month extension of their Conditional Use Permit issued on December 7, 2022. Pursuant to Section 3.2.G of the Zoning Ordinance, the allotted one time eighteen (18) month extension was granted prior to the June 7, 2024 expiration date of the CUP with a new expiration date of December 7, 2025.

The subject request does not include any new proposals or modifications beyond what was originally approved and is limited only to the expiration date of the CUP.

The construction for the Rippon Energy Facility has not yet commenced with the issuance of a building permit. Please see below for the current project status.

**Project Status**

- 10/27/2022: Conditional Use Permit for a 737 acre portion of an 878 acre Solar Energy Facility Site granted by the Board of Zoning Appeals.
- 12/07/2022: Conditional Use Permit #22-9-CUP was issued. Expiration date: 06/07/2024.
- 11/15/2022: Concept Plan Approved by the Planning Commission. Expiration date: 11/15/2024.
- 11/01/2023: Zoning Certificate issued (administrative process).

Construction and Stormwater Management Plans. This submission vested the Concept Plan approval.

- Submission #1: 10/18/24; comments returned 11/07/25
- Submission #2: 06/30/25; comments returned 07/17/25
- Submission #3: 09/26/25; comments returned 10/09/25

Pursuant to [WV Code Chapter §8A-7-11](#) and Article 2 of the [Jefferson County Zoning Ordinance](#), a variance is defined as "...a deviation from the minimum standards of the zoning ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district nor shall it involve changing the zoning classifications of a parcel of land."

Pursuant to [WV Code Chapter §8A-7-11](#) and Article 6, Section 6.2 of the [Zoning Ordinance](#), the Board shall consider the following criteria and shall grant a variance if it finds that the variance:

1. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
2. Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance;
3. Would eliminate an unnecessary hardship and permit a reasonable use of the land; and
4. Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.

**Conditions of Approval**

Should the Board choose to approve this request, possible conditions of approval include:

1. No conditions of approval have been identified.

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
October 23, 2025

**25-30-ZV Rippon Energy Facility, LLC RE: File #22-9-CUP**

**Sections of Ordinance to be Considered:**

**Section 3.2 Zoning Administrator**

G. A zoning certificate and/or conditional use permit shall become void eighteen (18) months after the date of issuance if the construction or use for which the permit was issued has not commenced. A one-time extension of this time frame may be granted by the Board of Zoning Appeals after evaluation of the hardship involved with noncompliance of this regulation. The length of time extended shall be at the discretion of the Board of Zoning Appeals and shall not exceed eighteen (18) months. Pursuant to Chapter 8A of the West Virginia Code as amended, a Zoning Certificate or Conditional Use Permit associated with a subdivision or land development plan - whether recorded or not yet recorded, valid under West Virginia law and outstanding as of January 1, 2010 - shall remain valid until July 1, 2012, provided that the land development plan or plat received at least preliminary approval by the Planning Commission or County Commission by March 1, 2010.

\* In order for the conditional use permit to be considered vested, a building permit is required to be issued (see attached policy dated June 17, 2013).





**JEFFERSON COUNTY, WEST VIRGINIA**  
 Department of Engineering, Planning and Zoning  
**Office of Planning and Zoning**  
 116 East Washington Street, 2<sup>nd</sup> Floor  
 Charles Town, West Virginia 25414

File #: 25-30-2V  
 Mtg. Date: 10-23-25  
 Fee Paid: \$ 150

Email: [zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)

Phone: (304) 728-3228

**Zoning Variance Application**

Variations from the Zoning and Land Development Ordinance must comply with Article 8A-7-11 of the WV State Code. A variance is a deviation from the minimum standards of the Ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district, nor shall it involve changing the parcel's zoning classification.

**Property Owner Information**

Owner Name: Multiple Property Owners - see attached.  
 Business Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Applicant Contact Information**

Applicant Name: Rippon Energy Facility, LLC / Attn: Brian Kusiak Same as owner:   
 Business Name: Rippon Energy Facility, LLC  
 Mailing Address: 802 E. Jefferson St., Suite 2b, Charlottesville, VA 22902  
 Phone Number: 804-337-4572 Email: bkusiak@torchcleanenergy.com

**Consultant Information**

Consultant Name: N/a  
 Business Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Physical Property Details**

Vacant Lot:

Physical Address: See attached  
 Parcel ID: (Tax District / Map No. / Parcel No.) See attached  
 Parcel Size: See attached Deed Book: See attached Page No: See attached

**Zoning District (please check one)**

- |   |   |
|---|---|
| <input type="checkbox"/> Residential Growth (RG)                          | <input type="checkbox"/> General Commercial (GC)                |
| <input type="checkbox"/> Industrial Commercial (I-C)                      | <input type="checkbox"/> Highway Commercial (HC)                |
| <input checked="" type="checkbox"/> Rural (R)*                            | <input type="checkbox"/> Light Industrial (LI)                  |
| <input type="checkbox"/> Residential-Light Industrial-Commercial (R-LI-C) | <input type="checkbox"/> Major Industrial (MI)                  |
| <input type="checkbox"/> Village (V)                                      | <input type="checkbox"/> Planned Neighborhood Development (PND) |
| <input type="checkbox"/> Neighborhood Commercial (NC)                     | <input type="checkbox"/> Office/Commercial Mixed-Use (OC)       |

Is there a Code Enforcement action pending in relation to this property?  Yes  No

**RECEIVED**

19  
 SEP 25 2025 *gnt*

Date Received:

JEFFERSON COUNTY PLANNING  
 ZONING & ENGINEERING

**Briefly describe the nature of the request (include the dimensions of the proposed structure, if applicable):**

Section of the Zoning Ordinance pertaining to this request:

Section 3.2G

See attached for more detail.

**If this request is for a setback variance, please check the following:**

Front Setback       Side Setback       Rear Setback      Reduction from \_\_\_\_\_ to \_\_\_\_\_

**Required Sketch:** Provide a sketch showing the shape and location of the lot indicating all roads, rights of way, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e. the distance of the structure from all property lines), size, and height. Identify all existing buildings, structures, or land uses on the property. The sketch should show the full extent of the property.

**Required Responses:** Each of the following questions must be answered in detail. The Board will evaluate your request based on the answers provided (attach a separate sheet of paper if necessary).

Explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.

See attached

In what way does this request arise from special conditions or attributes, which pertain to the property for which a variance is sought and which were not created by the person seeking the variance?

See attached

How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land?

See attached

How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice done?

See attached

I authorize the Planning and Zoning staff to revise the application/sketch on my behalf. I understand that said revisions will be discussed with me prior to revising the application/sketch.

**The information given is correct to the best of my knowledge. Property Owner Signature Required.**

*By signing this application, I grant permission to County staff to walk onto the subject property to take photos for the Board of Zoning Appeals staff reports.*

*See attached for property owner signatures*

Property Owner Signature

Date

Property Owner Signature

Date

Rippon Energy Facility, LLC  
22-9-CUP  
Variance Application Attachment

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**Briefly describe the nature of the request (include the dimensions of the proposed structure, if applicable):**

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Section of the Zoning Ordinance pertaining to this request: Pursuant to Section 3.2G of the Zoning Ordinance, a Conditional Use Permit is valid for 18 months and may be extended once by the BZA for up to 18 additional months. Rippon's CUP (#22-9-CUP) was extended on November 9, 2023, through December 7, 2025. Rippon now seeks a further nine-month extension, to August 7, 2026, to allow completion of ongoing stormwater engineering and coordination with Jefferson County. This request involves no change to the approved use, conditions, or design of the facility.

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**Required Responses:** Each of the following questions must be answered in detail. The Board will evaluate your request based on the answers provided (attach a separate sheet of paper if necessary).

---

Explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.

---

Granting this variance will have no adverse effect on the public or on neighboring property owners because it does not change the nature, location, or conditions of the Rippon Energy Facility. The Board of Zoning Appeals has already determined that the solar facility satisfies all requirements of the Zoning Ordinance and granted a Conditional Use Permit (CUP) for this use. This variance simply extends the time allowed for commencement of construction, so that the project team can complete the extensive engineering and stormwater management review process with the County. All approved setbacks, buffers, landscaping, and protective measures remain in place, ensuring that the health, safety, and rights of the community are fully preserved.

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In what way does this request arise from special conditions or attributes, which pertain to the property for which a variance is sought and which were not created by the person seeking the variance?

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This request arises from the unique complexity of coordinating stormwater management design for a utility-scale solar facility in Jefferson County. The County's stormwater ordinance contains solar-specific provisions, but their application has evolved as the County refines its interpretation based on lessons learned from the one solar project constructed to date. Rippon has been working collaboratively with County Engineering for nearly a year to clarify and implement appropriate measures that both meet the ordinance and address the County's concerns. Rippon has proposed a design that would use terrain-tracking equipment that would minimize grading and land disturbance in array areas. Rippon continues to provide information on this approach to County staff.

Additionally, Rippon was recently notified by Potomac Edison and PJM (the grid operator) of an increase in grid interconnection costs, which are borne by the Project. These changes are not expected

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to affect overall project viability, but have prompted adjustments in the Project's budget and financing requirements.

While Rippon has acted diligently and in good faith, the process of resolving these issues has taken longer than anticipated and remains outside Rippon's sole control. The need for additional time stems from these regulatory and engineering circumstances and not from any delay created by the applicant.

---

How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land?

---

Without an extension, the CUP could expire before commencement of the use can begin, despite Rippon's significant investment and continued progress on design and permitting. This would create unnecessary hardship by forcing the project to halt and potentially reapply, jeopardizing millions of dollars already committed and frustrating the landowners' ability to put their property to a reasonable, approved use. Granting the variance ensures that the approved solar facility can move forward once stormwater approvals are finalized, allowing the land to be used productively for the approved renewable energy use.

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How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice done?

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The intent of the Zoning Ordinance is to provide for orderly, compatible land uses that advance public welfare. Solar energy facilities are expressly allowed as conditional uses under the County's ordinance, and Rippon's CUP has already been reviewed and approved subject to extensive protective conditions. Granting this variance respects that approval, ensures that those conditions remain enforceable, and allows the project to proceed once the County's technical requirements are satisfied. Substantial justice is achieved by recognizing the applicant's diligence, the landowners' reliance on the CUP, and the community's interest in responsible development—while simply adjusting the timing of the CUP to accommodate necessary County review.

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Rippon Energy Facility – Variance Application Attachment

Physical Property Details & Property Owner Signatures

Property Owner	HOUGH CLARENCE E ET AL				
Property Address	Meyerstown Rd.				
Parcel ID	06 10000300010000				
Vacant Lot?	Yes				
Tax District	06	Map Number	10	Parcel #	03-01
Deed Book	1209	Deed Page	172		
Zone	<b>Rural</b>				
Parcel Size	109				

  
Todd Hough (Sep 17, 2025 06:48:20 HST)

17/09/25

Todd Hough

Date






# Rippon\_Variance Signature - Hough

Final Audit Report

2025-09-17

Created:	2025-09-17
By:	Brian Kusiak (bkusiak@gmail.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAA09jgbhMRRap8KQdml1r6FTc8eN20rHzD

## "Rippon\_Variance Signature - Hough" History

-  Document created by Brian Kusiak (bkusiak@gmail.com)  
2025-09-17 - 4:45:16 PM GMT
-  Document emailed to Todd Hough (oakwoodfarm@frontiernet.net) for signature  
2025-09-17 - 4:45:20 PM GMT
-  Email viewed by Todd Hough (oakwoodfarm@frontiernet.net)  
2025-09-17 - 4:47:19 PM GMT
-  Document e-signed by Todd Hough (oakwoodfarm@frontiernet.net)  
Signature Date: 2025-09-17 - 4:48:20 PM GMT - Time Source: server
-  Agreement completed.  
2025-09-17 - 4:48:20 PM GMT

**Rippon Energy Facility – Variance Application Attachment**

Property Owner	VIEW MOUNTAIN FARM LLC				
Property Address	Kabletown Rd				
Parcel ID	06 21000600000000				
Vacant Lot?	No				
Tax District	06	Map Number	21	Parcel #	06
Deed Book	945	Deed Page	636		
Zone	<b>Rural</b>				
Parcel Size	102				

 9/10/25  
Neal Snyder Date

**Rippon Energy Facility – Variance Application Attachment**

Property Owner	TCE RIPPON LAND COMPANY, LLC				
Property Address	2046 Kabletown Rd				
Parcel ID	06 21000500000000				
Vacant Lot?	No				
Tax District	06	Map Number	21	Parcel #	05
Deed Book	1345	Deed Page	573		
Zone	<b>Rural</b>				
Parcel Size	175				

Property Owner	TCE RIPPON LAND COMPANY, LLC				
Property Address	E Dutch Hill Rd				
Parcel ID	06 21000700000000				
Vacant Lot?	Yes				
Tax District	06	Map Number	21	Parcel #	07
Deed Book	1345	Deed Page	573		
Zone	<b>Rural</b>				
Parcel Size	89				

Property Owner	TCE RIPPON LAND COMPANY, LLC				
Property Address	Windy Valley Ln				
Parcel ID	06 22000500010000				
Vacant Lot?	Yes				
Tax District	06	Map Number	22	Parcel #	05-01
Deed Book	1345	Deed Page	573		
Zone	<b>Rural</b>				
Parcel Size	232				


9/18/2025  
 \_\_\_\_\_  
 Samuel Gulland Date

September 18, 2025

**VIA FEDERAL EXPRESS**

J. Tyler Quynn, Chair, and Members of the Jefferson County Board of Zoning Appeals  
c/o Andy Beall, Zoning Administrator  
Jennilee Hartman, Zoning Clerk  
116 East Washington Street, 2<sup>nd</sup> Floor  
Charles Town, WV 25414

**Re: Rippon Energy Facility, LLC Conditional Use Permit File #22-9-CUP**

Dear Chair Quynn and Members of the Jefferson County Board of Zoning Appeals:

Rippon Energy Facility, LLC (“Rippon”) respectfully requests a variance pursuant to Article 6.2 of the Jefferson County Zoning and Land Development Ordinance. This request does not alter the substance of Rippon’s approved Conditional Use Permit (CUP #22-9-CUP, issued December 7, 2022) authorizing operation of a solar energy facility in the Rural Zoning District. The Board of Zoning Appeals extended the CUP once already, to December 7, 2025. Rippon now seeks a further nine-month extension, to August 7, 2026, to accommodate completion of stormwater management engineering and County review that must precede the issuance of a building permit.

The need for this variance arises from special circumstances outside Rippon’s control—specifically, the complexity of Jefferson County’s stormwater ordinance and the application of its solar-specific provisions. These requirements have continued to develop as the County refines its approach based on prior experience with solar projects. Rippon has worked diligently and in good faith to advance its stormwater design, first submitting plans in October 2024, revising them in June 2025, and discussing them in multiple coordination meetings with County staff. Of note, Rippon has proposed a design that would minimize grading and land disturbance and has provided information on this technology and its viability to County staff. Another revision is anticipated in September. Even with considerable and continuous effort, clarifying and addressing the County’s evolving requirements has taken longer than expected. Denying this request would impose unnecessary hardship by jeopardizing Rippon’s vested rights and substantial investments, notwithstanding Rippon’s diligent pursuit of all required approvals. Additionally, Rippon was recently notified by Potomac Edison and PJM of an increase in estimated grid interconnection costs, all of which are borne by the Project. While this change is not expected to affect overall project viability, it has prompted a change in the Project’s budget and spend schedule.

As detailed in the attached application, granting this variance will not adversely affect public health, safety, or neighboring property owners. This limited relief preserves the intent of the Zoning Ordinance, which already authorizes solar energy facilities through the CUP process, and



ensures substantial justice by allowing Rippon and participating landowners to continue reasonable, approved use of the land while keeping all protective CUP conditions in place.

Accordingly, Rippon respectfully requests approval of this variance to extend the CUP term. If you have specific questions, please feel free to contact me or Sam Gulland using the contact information provided below.

- Sam Gulland: sgulland@torchcleanenergy.com; (703) 999 – 4280
- Brian Kusiak: bkusiak@torchcleanenergy.com; (804) 337-4572

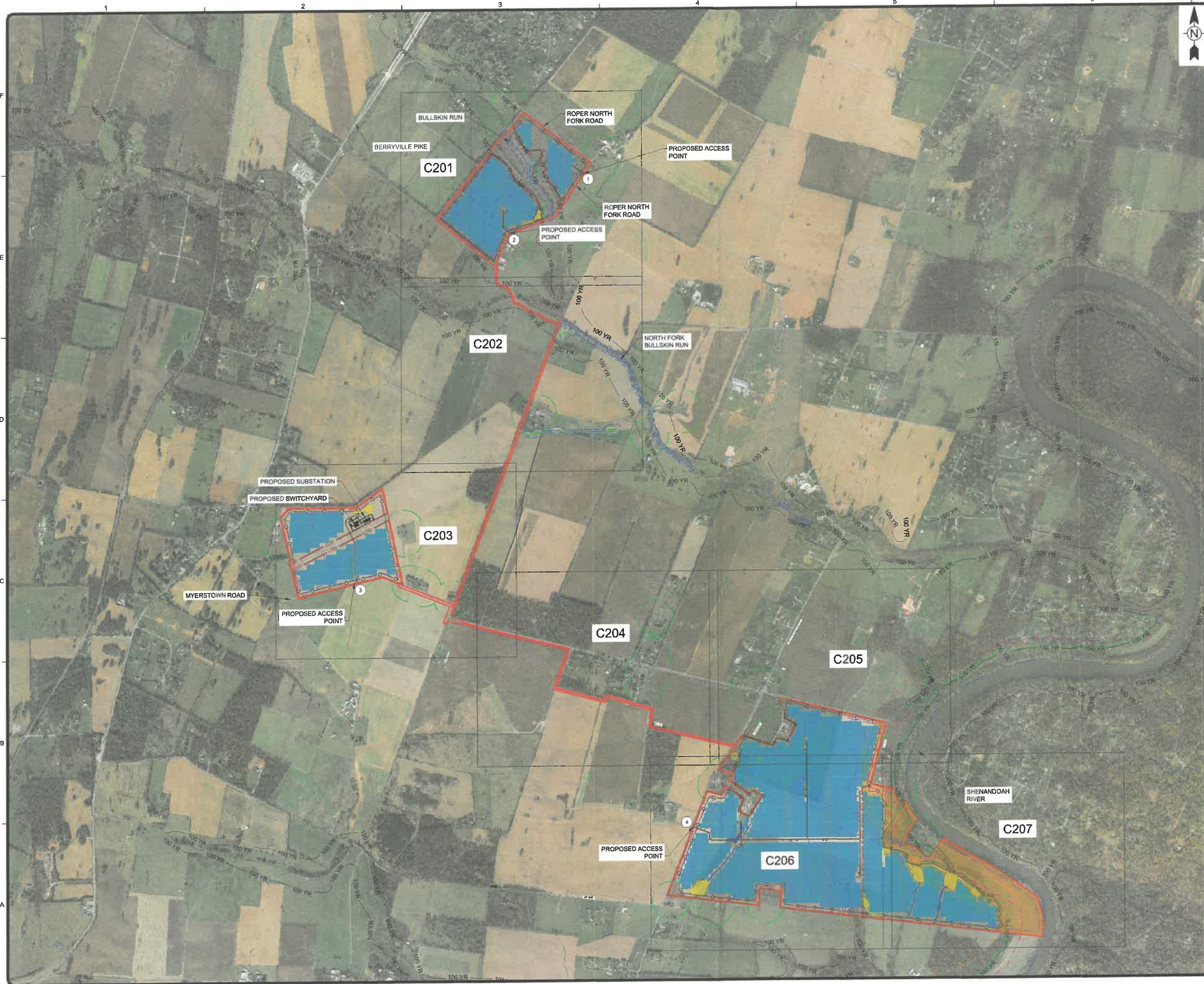
Thank you for your attention and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Kusiak", written in a cursive style.

Brian Kusiak  
Project Development Manager

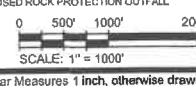
9/11/2025 3:21:40 PM - C:\\_ADACDCDOSTETRA TECH INC\194-1366-0005 RIPPONPROJECT FILES\CIVIL\194-1366-0005-C200.DWG - ZEIGLER, JUSTIN



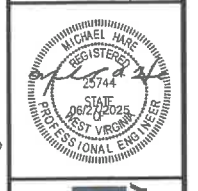
- GENERAL NOTES:**
- PROJECT AND PROPERTY LINES ARE BASED ON THE ALTA SURVEY PERFORMED BY GREENWAY ENGINEERING, INC. DATED AUGUST 21, 2024. PROPERTY BOUNDARY SHOWN FOLLOWS EXISTING PARTICIPATING PARCEL LINES EXCEPT ALONG MV CORRIDOR, WHICH WAS SPECIFIED BY TORCH CLEAN ENERGY.
  - BASED ON THE ALTA SURVEY, DEVELOPMENT CANNOT OCCUR IN THE NORTHWEST CORNER OF PARCEL 06001000030001 DUE TO EMINENT DOMAIN EXERCISED BY WVDOH.
  - KARST MITIGATION STRATEGY DEVELOPED BY TERRACON AND OUTLINED IN KARST CONSTRUCTION MANAGEMENT PLAN DATED OCTOBER 7, 2024. DURING CONSTRUCTION, CONTRACTOR WILL MONITOR FOR THE FORMATION OF NEW KARST FEATURES. IF ANY ARE OBSERVED, WORK WILL STOP WITHIN 100 FEET OF THE FEATURE AND A DETAILED INSPECTION WILL BE PERFORMED BY A KARST SPECIALIST TO ASSESS IMPACTS TO THE SUBSURFACE. ADDITIONAL CONSULTATION WITH THE EOR MAY BE NECESSARY FOR SINKHOLE REMEDIATION.
  - HILLSIDE DEVELOPMENT PROTECTIONS (SUBDIVISION ORD. SEC 22.504.A) ARE APPLICABLE WITHIN 1,000 FT OF SHENANDOAH RIVER. IN COMPLIANCE WITH THIS SECTION OF CODE, THE PROJECT'S DESIGN INCORPORATES THE REQUIRED DESIGN PRINCIPLES BY MINIMIZING ALTERATION OF EXISTING TERRAIN AND REMOVAL OF TOPSOIL AND VEGETATIVE COVER BY AVOIDING EARTHWORK IN MOST OF THE APPLICABLE PROJECT AREA AND LIMITING CUT AND FILL TO SMALL AREAS. THE WEIGHTED AVERAGE OF SLOPES WITHIN THIS ZONE IS APPROXIMATELY 9.7% SO NO LAND IS REQUIRED TO BE MAINTAINED IN A NATURAL CONDITION PER TABLE 22.504 OF SEC 22.504.A3. THE PROJECT WILL STILL PRESERVE SUBSTANTIAL AREA IN NATURAL CONDITION INCLUDING THE EXISTING MATURE TREE LINE NEAR THE SHENANDOAH RIVER.
  - MV LINE EASEMENT CONFIGURATION PROVIDED BY TORCH CLEAN ENERGY. DETAILS TO BE PROVIDED IN ELECTRICAL PLAN SET.
  - THE SUBSTATION AND SWITCHYARD HAVE BEEN DESIGNED IN ACCORDANCE WITH FIRSTENERGY REQUIREMENTS BY THE GPD GROUP AND ARE AVAILABLE UNDER SEPARATE COVER.
  - WATER QUALITY FEATURES ARE PRESENTLY LOCATED WITHIN EASEMENTS FOR OVERHEAD ELECTRICAL LINES TO TREAT ADJACENT ACCESS ROADS. EASEMENT WORK TO BE COORDINATED WITH THE AHJ.

**LEGEND:**

- EXISTING BUILDING
- EXISTING 10' CONTOUR
- EXISTING 2' CONTOUR
- PROJECT BOUNDARY
- EXISTING PAVED ROAD
- EXISTING UNPAVED ROAD
- EXISTING FENCE LINE
- EXISTING OVERHEAD ELECTRIC
- EXISTING UTILITY POLE
- EXISTING ASSUMED ROAD RIGHT OF WAY
- EXISTING EASEMENT
- EXISTING 100 YEAR FEMA FLOODPLAIN
- EXISTING STREAM
- EXISTING STREAM (50' AND WETLAND (VARIES) BUFFERS
- EXISTING WETLAND
- KEEPPOINT BOUNDARY
- 40' RESIDENTIAL SETBACK (APPLIES TO INVERTERS)
- 100' PARCEL SETBACK / BUILDABLE PANEL AREA
- 30' VEGETATIVE LINE SETBACK
- 500' SHENANDOAH RIVER SETBACK
- 100' HILLSIDE DEVELOPMENT RESTRICTION ZONE
- 25' SHENANDOAH RIVER FLOODPLAIN BUFFER
- PRESERVED EXISTING TREE LINE ADJACENT TO SHENANDOAH RIVER
- EXISTING KARST AREA OUTSIDE PROJECT AREA
- EXISTING KARST FEATURES TO BE GRADED/DEVELOPED
- EXISTING KARST FEATURES TO BE REMEDIATED
- EXISTING KARST FEATURES TO BE AVOIDED (50-FT SETBACK)
- PROPOSED OVERHEAD TRANSMISSION EASEMENT
- PROPOSED OVERHEAD TRANSMISSION
- PROPOSED PUBLIC ROAD ACCESS POINT
- PROPOSED BASINS
- PROPOSED WATER QUALITY FEATURES
- PROPOSED SOLAR ARRAYS
- PROPOSED ROAD EDGE
- PROPOSED INVERTER
- PROPOSED FENCELINE
- PROPOSED SUBSTATIONS/SWITCHYARD
- BAFFLES (TYP)
- STORMWATER TRENCHES
- RIPRAP
- PROPOSED ROCK PROTECTION OUTFALL



**TETRA TECH**  
www.tetrattech.com  
4101 COX ROAD, SUITE 100  
GLEN ALLEN, VA 23060  
TEL: (804) 200-4321 FAX: (804) 270-2739



**TORCH CLEAN ENERGY**

MARK	DATE	DESCRIPTION	BY	MC	MH	MH
0	08/20/25	FIRST AHJ RESUBMISSION				
1	08/19/25	SECOND AHJ RESUBMISSION				
2						

TORCH CLEAN ENERGY  
JEFFERSON COUNTY, WEST VIRGINIA  
RIPPON ENERGY FACILITY

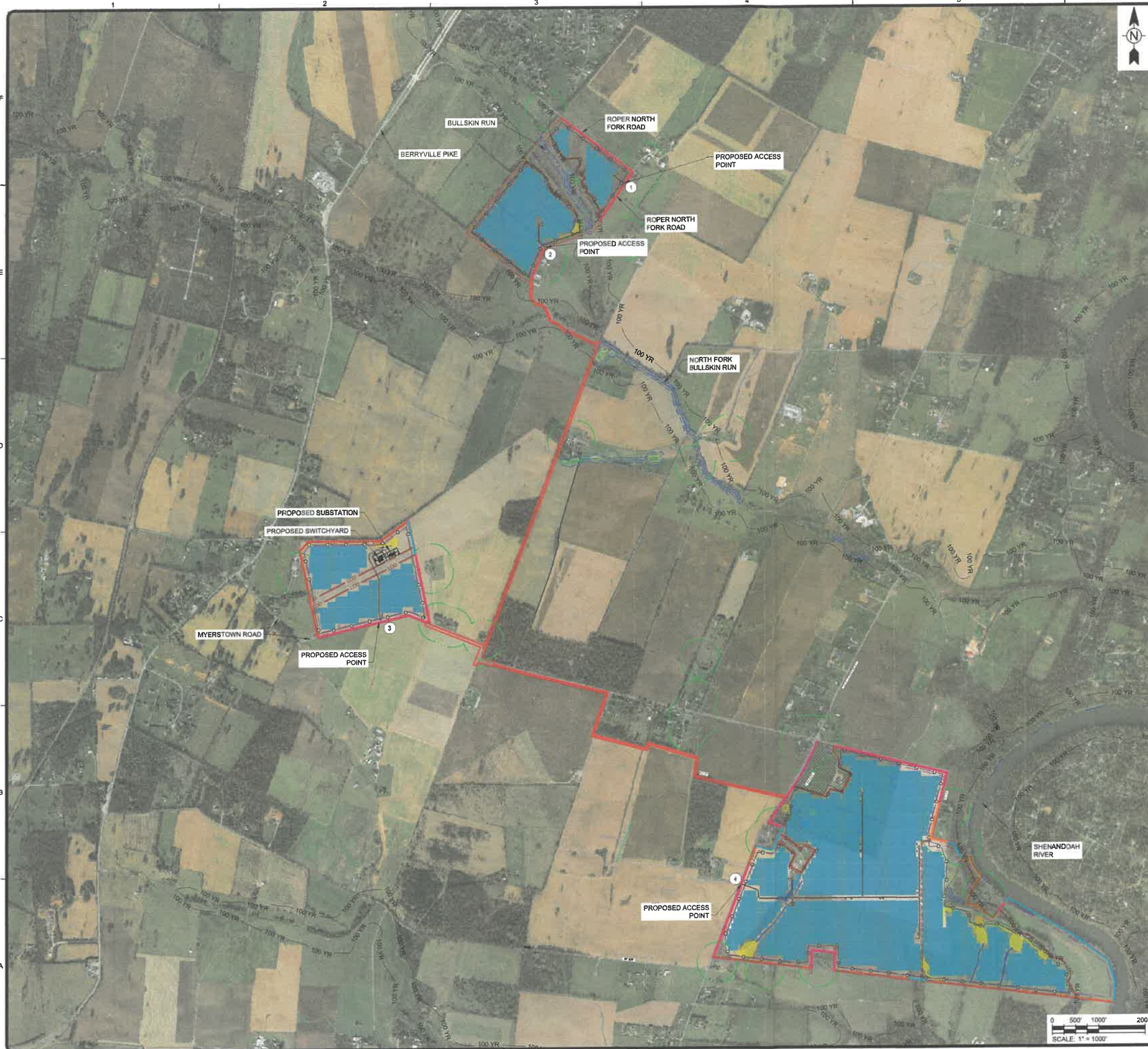
**OVERALL SITE PLAN SHEET**

PROJ: 194-1366-0005  
DES: M.HARE  
DRWN: J.ZEIGLER  
CHKD: M.SHORT

**C200**

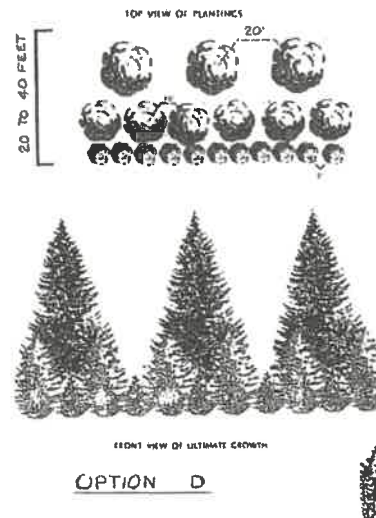
Copyright: Tetra Tech

9/11/2025 3:16:00 PM - C:\ADVACCDCS\TETRA TECH INC\194-1366-0005 RIPPON\PROJECT FILES\CIVIL\194-1366-0005-C700.DWG - ZEIGLER, JUSTIN

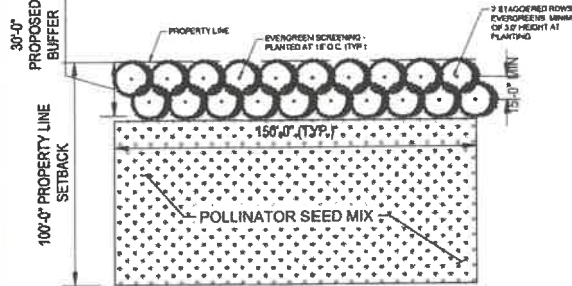


**LANDSCAPING AND GROUND COVER PLAN:**

1. THE PERMANENT SOLAR FACILITY'S LIMITS OF DISTURBANCE, INCLUDING UNDER EACH PHOTOVOLTAIC (PV) MODULE, WILL BE SEEDED WITH A NATIVE LOW-GRASS MIX THAT IS POLLINATOR-FRIENDLY AND WILL PRODUCE A RESILIENT GROUND COVER. THE GROUND CLEARANCE OF THE PV MODULES AND THEIR ROTATING CONFIGURATION ALLOWS FOR DAILY SUN EXPOSURE AND WATER TO SUPPORT THE GROWTH OF THESE SPECIES.
2. THIS NATIVE LOW-GRASS MIX WILL BE COMPRISED OF TO-BE-DETERMINED PROPORTIONS OF THE FOLLOWING SPECIES: CREEPING RED FESCUE (FESTUCA RUBRA), SIDEOATS GRAMA (BOULDOUUA CURTIPENDULA), PRAIRIE JUNGGRASS (KOELERIA MACRANTHA), VIRGINIA WILDRYE (ELMYMUS VIRGINICUS), UPLAND BENGGRASS (ARGOSTIS PERENNAS), LANDIO CLOVER (TRIFOLIUM REPENS), PARTRIDGE PEA (CHAMAECRISTA FASCICULATE).
3. VEGETATIVE COVER SHALL HAVE A MINIMUM OF 90 PERCENT OR BETTER UNIFORM COVERAGE AND BEST MANAGEMENT PRACTICES SHALL BE EMPLOYED TO CONTROL OR MANAGE ANY INVASIVE PLANT SPECIES AS DEFINED BY THE WEST VIRGINIA DEPARTMENT OF AGRICULTURE. EXISTING VEGETATION AND TREES WILL BE RETAINED TO THE EXTENT POSSIBLE AT OUTSIDE PROPERTY BOUNDARIES AND TREES WILL BE PLANTED IN CERTAIN BUFFER AREAS TO PROVIDE ADDITIONAL SCREENING.
4. LANDSCAPING SHOWN HEREON IS FROM KIMLEY HORN PLANS TITLED "LANDSCAPE BUFFERS", SHEET NUMBER C4.0 DATED 9/30/2022.
5. SITE OPERATOR SHALL NOT CUT, PRUNE, OR REMOVE TREES IN THE PRESERVED EXISTING TREE LINE ADJACENT TO THE SHENANDOAH RIVER.



**DETAIL #1 20' - 40' (MIN.) VEGETATIVE BUFFER**  
N.T.S



**DETAIL #2 30' (MIN.) VEGETATIVE BUFFER**  
N.T.S

**LEGEND:**

- EXISTING BUILDING
- PROJECT BOUNDARY
- EXISTING PAVED ROAD
- EXISTING UNPAVED ROAD
- EXISTING FENCE LINE
- EXISTING OVERHEAD ELECTRIC
- EXISTING UTILITY POLE
- EXISTING ASSUMED ROAD RIGHT OF WAY
- EXISTING EASEMENT
- 100 YR EXISTING 100 YEAR FLOODPLAIN
- EXISTING STREAM
- EXISTING STREAM (50') AND WETLAND (VARIES) BUFFERS
- EXISTING WETLAND
- KEEPOUT BOUNDARY
- 400' RESIDENTIAL SETBACK
- 100' PARCEL SETBACK / BUILDABLE PANEL AREA
- 30' VEGETATIVE LINE SETBACK
- PRESERVED EXISTING TREE LINE ADJACENT TO SHENANDOAH RIVER - OPERATOR SHALL NOT CUT, PRUNE, OR REMOVE TREES IN THIS AREA.
- PROPOSED PUBLIC ROAD ACCESS POINT
- PROPOSED BASINS
- PROPOSED SOLAR ARRAYS
- PROPOSED ROAD EDGE
- PROPOSED INVERTER
- PROPOSED FENCELINE
- PROPOSED BUILDING
- VOLUNTARY/PROFFERED PROPOSED 30' VEGETATIVE BUFFER. SEE PROPOSED PLANTING DETAIL #1 ABOVE
- VOLUNTARY/PROFFERED PROPOSED VEGETATIVE BUFFER. SEE PROPOSED PLANTING DETAIL #2 ABOVE
- VOLUNTARY/PROFFERED PROPOSED PRESERVED VEGETATIVE BUFFER

**TETRA TECH**  
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4101 COX ROAD, SUITE 100  
GLEN ALLEN, VA 23060  
TEL: (804) 360-4321 FAX: (804) 270-2739

MICHAEL HARE  
REGISTERED PROFESSIONAL ENGINEER  
STATE OF WEST VIRGINIA  
LICENSE NO. 25744  
DATE: 06/27/2025

**TORCH CLEAN ENERGY**

MARK	DATE	DESCRIPTION
0	10/18/24	INITIAL AHJ SUBMISSION
1	06/20/25	FIRST AHJ RESUBMISSION
2	09/19/25	SECOND AHJ RESUBMISSION

TORCH CLEAN ENERGY  
JEFFERSON COUNTY, WEST VIRGINIA  
RIPPON ENERGY FACILITY  
**LANDSCAPING PLAN**

PROJ: 194-1366-0005  
DESIGN: M.HARE  
DRAWN: J.ZEIGLER  
CHKD: M.SHORT

**C700**

Bar Measures 1 inch, otherwise drawing not to scale

# Public Comment



## Zoning

---

**From:** Zoning  
**Sent:** Thursday, October 16, 2025 8:59 AM  
**To:** 'Krista Edwards'  
**Cc:** John Cline  
**Subject:** RE: Ripon Energy Solar, File#25-30-ZV

Good afternoon,

Please note that our office is in receipt of your email and your comments will be included in the Board's mailed packet for the upcoming October 23, 2025 Board of Zoning Appeals meeting. This packet will be made available on the County's [webpage](#) by close of business on Friday, October 17, 2025.

Thank you,

Jennilee Hartman, Zoning Clerk  
Office of Planning and Zoning  
[www.jeffersoncountywv.org](http://www.jeffersoncountywv.org)  
304-728-3228

---

**From:** Krista Edwards <kristaedwards2014@gmail.com>  
**Sent:** Wednesday, October 15, 2025 9:38 PM  
**To:** Zoning <Zoning@jeffersoncountywv.org>  
**Cc:** John Cline <johnacline59@gmail.com>  
**Subject:** Ripon Energy Solar, File#25-30-ZV

**CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or on clicking links from unknown senders.**

Please consider the following comments on the above-referenced variance application:

**1, The application is improper on its face because it seeks relief the Board is not authorized to grant.**

The Zoning Ordinance expressly addresses CUP extensions, and it unambiguously limits both their number and duration: the Board may grant a single extension of not more than 18 months. Ripon's attempt to end-run this limitation by relying on the Board's general variance authority should be rejected out of hand. Applicant cites no precedent or other authority for its extraordinary request. As it happens, the most salient precedent is unhelpful. In the recent WildHill case (File #25-27-ZV, decided September 25, 2025), the Board correctly denied the applicant's request for a second extension of a solar facility CUP.

**2. Even if the Board had authority to grant a second extension, it should deny the application on the merits because Applicant has not shown special circumstances unrelated to its own conduct.**

Applicant claims that it is unable to commence construction before the expiration of its CUP because of the "complexity" of the County's technical requirements for stormwater management. Applicant insists it has "acted diligently and in good faith," but that it simply cannot expect to satisfy the County before its CUP expires. Additionally, Applicant asserts that a recent increase in interconnection rates has "prompted adjustments in the Project's budget and financing requirements," but offers no explanation as to when this occurred, much less how it impacted Applicant's construction schedule.

We don't know if County staff will accept Applicant's characterization of its engineering efforts. Be that as it may, nothing about the chronology Applicant sets forth suggests that fault lies otherwise than with Ripon. By its own admission, Applicant did not even present a stormwater management plan until October 2024 — fully two years after its CUP was approved and nearly a year after the Board granted the CUP extension. Since then, by Applicant's own admission, it failed to revise its design in a way that would satisfy County requirements. This is not a record of diligence or of good faith.

To be clear, we do not minimize the importance or complexity of stormwater management for a project of this scale and siting. Inadequate stormwater management would pose a serious risk to health, safety, private property, public infrastructure and some of the County's most environmentally sensitive land, above and along the Shenandoah River. Applicant notes the County's recent experience with inadequate stormwater management on a different solar facility and asserts the "lessons learned" from that experience influenced the County's regulatory review. Without naming it, Applicant refers to the Blake Solar facility, constructed a few miles downriver from Ripon's site. Blake was developed with notoriously inadequate stormwater management, resulting in multiple citations and a Consent Order with the West Virginia Department of Environmental Protection. Applicant suggests this experience led the County to more rigorously interpret its stormwater requirements, as well it should have. We commend County staff for holding Ripon to proper engineering standards. Any developer acting "diligently and in good faith" would have proactively addressed the obvious risks of inadequate stormwater management, with or without the "lessons learned" from Blake Solar.

In any case, we doubt that the application tells the whole story of Ripon's delay. With a multi-million dollar project otherwise on the line, Applicant surely would pull out all stops to satisfy the County requirements, even at the risk of over-engineering. Of course we don't know Ripon's internal business considerations. But, based on public reporting on solar projects generally, we suspect Ripon paced its engineering investment based on broader business risk related to interconnection arrangements, the availability of federal investment and production tax credits, and tariff rates on Chinese-manufactured solar panels. With all the market and political uncertainty over solar development, Applicant may well have made a prudent decision to slow-roll development. Of course it was free to do so, accepting the consequence that its time-limited CUP would expire.

### **3. Applicant has not shown that a second extension would be consistent with the public interest.**

More has changed since 2022 than interconnection rates and the rigor of stormwater review. Ripon's project was approved during the brief heyday of solar development in Jefferson County. At the time, out-of-state developers chasing federal tax incentives offered windfall profits to agricultural land owners. Private deals were brokered joining multiple parcels owned by multiple individuals and estates into utility-scale projects that would upload power to feed the insatiable energy demand of Northern Virginia data centers. At that time, most County residents were not paying attention. Others were misled to believe that solar projects would be compatible with neighboring land use and serve as a "green" way of preserving farmland.

Now we know better. Blake Solar demonstrated more than the perils of inadequate stormwater management. It made a dystopian eyesore out of some of the County's most beautiful viewscapes. It depressed property values for neighboring property owners. And it sacrificed prime farmland for a fleeting industrial operation that will leave behind a vast wasteland when the tax credits are exhausted and more efficient and less land-intensive energy generation technology inevitably comes online

In the circumstances, Applicant's assertion that its requested variance would not adversely affect public interests is absurd. At 878 acres, Ripon Energy would be far and away the largest facility, well over half again the size of Blake Solar, with correspondingly more neighbors. It's no answer that the Ripon Energy project once earned approval under the Zoning Ordinance or that the Zoning Ordinance expressly authorizes solar facilities. Neither the Solar Text Amendment nor the Ripon Energy CUP reflects a finding of no adverse impact, much less a finding that would extend beyond the term of the CUP. We're here now because the CUP is time-limited, as all CUPs are. Circumstances can change for the applicant and for the public. That's why the

Zoning Ordinance does not authorize perpetual CUPs. When a CUP expires, the developer is free to reapply, initiating a full public process in which adverse impacts can be identified and mitigated.

We fully expect that public concerns and the interests of neighboring property owners will get better protection in a future proceeding. The County is in the process of reforming its solar facility standards, precisely because public concerns and the interests of neighboring property owners demand more protection than they were afforded during the solar gold rush earlier this decade.

#### **4. Granting a second extension would undermine the County Commission’s policy-making authority.**

With Blake Solar as a wake-up call, public opposition to further solar development was a central issue in last year’s County Commissioner elections. After hearing candidates criticize the County’s solar development standards at several public forums, we decided to put the issue to all candidates in a precise, direct, and public way, leaving no doubt about their positions on this important issue. In a letter to the editor of *The Spirit of Jefferson*, published October 17, 2024, we asked all candidates to make the following pledge:

“As a candidate for Jefferson County Commission, I am committed to preserving the county’s rural character, natural resources and beauty. If elected, I will use all lawful authority to:

- Oppose the construction of utility-scale solar facilities on undeveloped or agricultural land;
- Oppose the use of tax incentives for utility-scale solar development;
- Mitigate the adverse impacts of existing solar facilities; and
- Ensure full transparency and public participation in all decisions involving solar development.”

All four of the candidates who won seats on the County Commission, including the President and Vice President, agreed to the pledge, committing to a new policy direction on solar development. These changes are underway through the Planning Commission. Any action by the Board to extend a 2022 solar facility CUP would undermine the Commission’s authority on these matters.

For these reasons, we urge the Board to deny the application.

Respectfully submitted,

John A. Cline and Krista L. Edwards

904 Ann Lewis Road, Charles Town



## Planning Department

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**From:** Planning Department  
**Sent:** Thursday, October 16, 2025 4:24 PM  
**To:** 'Robert Aitcheson'  
**Subject:** RE: Jefferson County Office of Planning and Zoning file #25-30-ZV; meeting date 10/23/2025

Good afternoon,

Please note that our office is in receipt of your email and your comments will be included in the Board's mailed packet for the upcoming October 23, 2025 Board of Zoning Appeals meeting. This packet will be made available on the County's [webpage](#) by close of business on Friday, October 17, 2025.

Thank you,

Jennilee Hartman, Zoning Clerk  
Office of Planning and Zoning  
[www.jeffersoncountywv.org](http://www.jeffersoncountywv.org)  
304-728-3228

---

**From:** Robert Aitcheson <bob.aitch46@gmail.com>  
**Sent:** Thursday, October 16, 2025 3:58 PM  
**To:** Planning Department <PlanningDepartment@jeffersoncountywv.org>  
**Subject:** Jefferson County Office of Planning and Zoning file #25-30-ZV; meeting date 10/23/2025

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To the Jefferson County Board of Zoning Appeals

### OBJECTION AND MOTION TO DISMISS

#### I. Introduction

The Applicant has filed a request seeking a second and this time, 9 month extension of its Conditional Use Permit (CUP). The Applicant improperly attempts to use the variance procedure to accomplish its goal. The undersigned, Robert D. Aitcheson, a resident and citizen of Jefferson County's Kabletown District, living very near to the project, OBJECTS and MOVES TO DISMISS subject Application for the following reasons:

- 1) In spite of Applicant's assertion that the requirements have changed since it first submitted its Stormwater Management Proposal, there have been NO changes in the Stormwater Management Ordinance since October 1, 2020.
- 2) In spite of the assertions by Applicant to the contrary, the requirements of the Ordinance have been applied uniformly and consistently to this project.
- 3) For the BZA to grant this Application would require an amendment to Section 3.2G of the Zoning Ordinance, which the BZA has no power to do.

4) Assuming arguendo, the BZA would have the power to amend Section 3.2G (which, as stated, it does not) a variance is not the proper vehicle for Applicant to obtain a remedy.

The Applicant uses the excuse that, in effect, County stormwater management requirements are a ‘moving target’, attempting to lay blame for its failures on the County Engineering Department. It is beyond comprehension that Torch Clean Energy, a national company owned by a group of New York equity investors, with similar projects all over North America, can’t seem to get a stormwater management plan approved for this project in the year since it’s first submission.

## II. Relevant Facts

Effective for the period from June 7, 2024 to December 7, 2025, Rippon Energy Facility LLC, owned by Torch Clean Energy, (hereinafter collectively “Rippon”) was granted the first extension of its CUP. To get this extension, it used the excuse that Mr. Rockwell had them tied up in litigation and it would have been imprudent to move forward and expend funds not knowing the outcome of the proceedings.

That litigation ended way back on October 4, 2024. They’ve had over a year to get a stormwater management plan approved, yet they have not acted diligently to do so. Instead, they want to lay blame on our Engineering Department because they are being held to the requirements of the Ordinance.

Rippon has submitted proposed stormwater management plans on the following dates:

October 18, 2024  
June 27, 2025  
September 26, 2025

The Ordinance requires that our Engineering Department respond with comments within 10 days. This was done, but with some difficulty because of the format Rippon’s engineer insisted on using. All have been rejected with comments.

The instant Application was received by the Planning Department on September 19, 2025. As one can readily see, Rippon could not have even known whether it’s third submission would be approved or rejected when the Application was filed whether it would be approved or rejected again, unless this was the plan all along. So they allege they need more time “to allow completion of ongoing stormwater engineering and coordination...” which, in theory, they don’t even know they need at that point.

### List of Exhibits:

Exhibit A Jefferson County Stormwater Management Ordinance as last amended October 1, 2020

Exhibit B Jefferson County Engineering Department file # 22-15-SP Spreadsheet for Rippon Energy Facility LLC submissions and Comments

Exhibit C Jefferson County Engineering Department file # 22-15-SP Rippon Energy Facility Construction Plans Rev 1, SWM Report Rev 1; Rev 2, SWM Report Rev 2; Rev 3, Rev 2 Comment Response

## III. Discussion

A. There have been no changes in the Ordinance and the Engineering Department has not misapplied those requirements.

Rippon has had more than ample time to get a stormwater management plan approved and has failed to do so. This is not its 'first rodeo'. They have these projects all over North America, the construction for which they run from their offices in Colorado, Houston, Texas and nearby Charlottesville.

In light of the changes in market and government support for these projects, one must wonder if there isn't another reason for seeking a further delay. It's certainly not that they are incapable of getting a stormwater management plan approved. And it's also not because our Engineering Department deviated from the requirements of the Ordinance, which the evidence will show they have not.

B. The BZA has no power to amend Section 3.2G.

The Applicant seeks relief from the provisions of section 3.2G of the Zoning Ordinance which allows for the granting of up to one (1) eighteen month extension, for emphasis, one and ONLY one. In order to grant the relief the Applicant seeks, the BZA would have to amend the ordinance.

"Long ago, this Court observed that 'a zoning appeals board is simply an administrative agency, acting in a quasi judicial capacity.' Wolfe v. Forbes, 159 W. Va. 34,45, 217 S. E. 2d 899, 906 (1975) (citations omitted) We explained that's board of zoning appeals is not a law-making body and, consequently, has no power to amend the zoning ordinance under which it functions. I'd. "" Far Away FarmLLC v. Jefferson county BZA, 222 W.Va. 252, 664 S.E. 2d 137 (2008)

The project already had its one extension. Section 3.2G is clear that a one time extension is the only one available. For that reason alone, the Application must be denied.

C. Even if the BZA could change the Ordinance, variance is not the remedy in this case.

There is no way Rippon could meet the 'unnecessary hardship requirement when it's own lack of due diligence is the cause of the problem it claims to have.

... 'unnecessary hardship' for a variance is not merely a financial or economic hardship. Instead, it must be the result of a property's unique physical characteristics such as size, shape or topography that prevent it from being used in a manner that is otherwise permitted. The inability to achieve maximum profit is not a sufficient basis for a variance. State ex rel. Young v. BZA of City of Charleston, 259 S.E. 2d 14 (W. Va. 1979)

W. Va. Code 8A-7-11(b)(2) makes it clear that the special condition must not have been "created by the person seeking the variance".

#### IV. Conclusion

There have been no changes in the law. The BZA can't change section 3.2G to accommodate Applicant's request and variance cannot be a remedy in this case. Therefore, the Application should be denied.

Robert D. Aitcheson

nb. The foregoing is on my own behalf only & expresses my lay opinions from my reading of the authorities cited.





# Jefferson County, West Virginia

Department of Engineering, Planning, and Zoning

Office of Planning and Zoning

116 East Washington Street, 2<sup>nd</sup> Floor

Charles Town, WV 25414

Email: [zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)

Phone: (304) 728-3228

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**Zoning Administrator's Report**  
**September 25, 2025 Board of Zoning Appeals Meeting**

**Date of Memo: October 23, 2025**

- 1) Next regular meeting scheduled for **Thursday, November 13, 2025**
  - Deadline for submission was Friday, October 10, 2025.
- 2) Zoning Certificate Activity Report – attached
- 3) The Planning Commission reviewed the solar text amendment at their meeting on September 23, 2025. Engineering is currently reviewing potential changes to the Subdivision & Land Development Regulations.



Jefferson County, West Virginia  
Department of Engineering, Planning and Zoning  
**Office of Planning and Zoning**  
116 E. Washington Street, 2<sup>nd</sup> Floor  
Charles Town, West Virginia 25414  
[www.jeffersoncountywv.org](http://www.jeffersoncountywv.org)

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**October 2025**  
**Zoning Certificate Activity Report**

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<b>File #</b>	<b>25-36-ZC</b>
Request:	Change in Tenant: Antique Shop
Property Owner:	Chris Tyler and Donna Hoffman
Applicant:	Timeless Tales Interior / Attn: Linda Garcia Castillo
Parcel Information:	2148 Berryville Pike, Charles Town, WV; Parcel ID: 06010A00230000; Size: 0.1003 acres*; Zoning District: Village; *Boundary Line Adjustment (PB 27 / PG 527 & DB 1357 / PG 14)
Date of Issuance:	09/30/2025
<b>File #</b>	<b>25-39-ZC</b>
Request:	Nonconforming Use – 199.6’ Telecommunications Monopole Tower Equipment Modifications
Property Owner:	Summit Point Automotive Research Center, LLC
Applicant:	American Tower Corporation / Attn: Joseph Blotner
Parcel Information:	770 Hardesty Road, Summit Point, WV 25446 Parcel ID: 06001700030000; Size: 60.99 acres; Zoning District: Rural Deed Book: 1321; Page: 261; Site Plan File: S10-07
Date of Issuance:	10/15/2025
<b>File #</b>	<b>25-41-ZC</b>
Request:	Change in Tenant (DALB) – Warehousing and Distribution, Limited
Property Owner:	B33 Jefferson Crossing, LLC
Applicant:	Sassy Nail / Attn: Elisa Soung
Parcel Information:	71 Jefferson Crossing Way, Suite B, Charles Town, WV 25414 Parcel ID: 02000800240009 Size: 1.17 acres; Zoning District: Residential-Light Industrial-Commercial; Deed Book: 1317; Page: 500; Site Plan File: 04-06
Date of Issuance:	09/30/2025

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